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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,470	10/31/2003	Bruce Ernest Tepper	9406	2772

27752 7590 06/01/2006

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

EXAMINER

LE, HOA T

ART UNIT	PAPER NUMBER
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1773

DATE MAILED: 06/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/699,470

Applicant(s)

TEPPER ET AL.

Examiner

H. T. Le

Art Unit

1773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 06 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4 and 6-12 is/are pending in the application.
- 4a) Of the above claim(s) 6,11 and 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1,2,4 and 7-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>03/05 & 04/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Election/Restrictions

2. Applicant's confirmation of the election of claims 1-5 and 7-10 in the reply filed on January 6, 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Response to Arguments

3. Claims 1, 2, 4 and 7-10 are rejected under 35 U.S.C. 102(b) as being anticipated by the Kobayashi patent (JP 60-018,171) as set forth in the last office action and further discussed below.

4. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Kobayashi patent (JP 60-018,171 as applied to claims 1-5, 7 and 10 above, and further in view of one of the following US patents: 5,556,394; 5,554,144; 5,554,143; 5,554,142; 5,643,588; 5,624,426; 5,609,587; 5,607,760; 5,575,784; 5,558,661; 5,997,521; 5,968,025; 5,906,603; 5,957,906; 6,118,041; and 6,107,537 as set forth in the last office action and further discussed below.

5. Applicant argued that the Kobayashi patent "does not teach or even suggest a sorbent having a plurality of surfaces wherein a fragrance component is impregnated onto such surfaces." With regard to "plurality of surfaces" of the sorbent, Kobayashi teaches

carrier (sorbent) that are films/plates having random holes or mesh or agglomerations of porous materials. See Kobayashi, page 5, last two paragraphs. These materials have plurality of surfaces created by the pores in their structure. With regard to the question whether the fragrance component is impregnated onto the surfaces of the sorbent material, the instant specification defines “impregnate” as “means to bring in contact a gaseous, liquid or solid material, e.g., a fragrance or PRM component and a second solid material. e.g., a sorbent to form an association of the first material with the second material”. Here, the Kobayashi patent teaches association of the fragrance component to the sorbent (carrier) by immersing or spraying (see Kobayashi, page 5, second full paragraph); and these approaches create contacts of the fragrance to the sorbent, and thus constitutes impregnating according to the instant invention.

5.1 Applicant further argued that “Kobayashi does not even teach or suggest where such a fragrance component is released only in the presence of one or more volatile substances that are then adsorbed by the sorbent.” Note that Kobayashi does teach the “hard to volatilize” property of the fragrance component (see Kobayashi, page 7, last line). In addition, all fragrance substance would be released in the presence of air, though at a much slower rate than in the presence of volatile substance. It’s the nature of fragrance. So this argument of applicant would also go against applicant’s own invention. There’s no evidence that applicant’s fragrance component would not be released at all in the absence of a volatile substance. Furthermore, the feature that Applicant’s argument relies on, i.e. fragrance component is released “only” in the presence of one or more volatile substances, is not

recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). More over, the fragrance component of the claimed invention would still be released, though in very low dose,

5.2 With regard to the release of fragrance component in the presence of a volatile substance, any fragrant substance would automatically be released in a volatile substance. It's the nature of fragrance.

6. Applicant's arguments filed January 6, 2006 have been fully considered but they are not persuasive for the reasons set forth above.

Conclusion

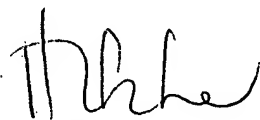
7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to H. T. Le whose telephone number is 571-272-1511. The examiner can normally be reached on 10:00 a.m. to 6:30 p.m., Mondays to Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on 571-272-1284. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



H. T. Le
Primary Examiner
Art Unit 1773

May 27, 2006